

## **REMARKS**

Applicants have carefully reviewed the Office Action mailed on August 2, 2006. Applicants respectfully traverse all objections, rejections, and assertions made by the Examiner. With this amendment claim 29 is amended. Claims 30-43 are newly presented. No new matter is added. Please cancel claims 1-10 and 12-25 without prejudice. Claims 28-43 remain pending.

### **Preliminary matters**

Applicants wish to thank the Examiner for the brief telephone conference on October 12, 2006. During the conference, the current claim rejections were discussed. In particular, Applicants' representative pointed to the fact that claims 28 and 29 recite a proximal portion having about 80 to about 95 weight % polyoxymethylene homogeneously blended with about 5 to about 20 weight % polyether polyester, and an outer layer including a proximal portion having about 80 to about 95 weight % polyoxymethylene homogeneously blended with about 5 to about 20 weight % polyether polyester, respectively, and that these limitations distinguish the claimed invention from the cited art. The Examiner indicated that the limitations may be sufficient to distinguish the claimed invention from the art (or at least that it would make it more challenging to maintain the rejection) but stated that it would be necessary to review the art before a conclusion could be made.

### **Claim rejections under 35 U.S.C. §112**

Claims 1-10 and 12-25 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The Examiner indicated that these claims contain subject matter that is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that Applicants, at the time the application was filed, has

possession of the claimed invention. Applicants respectfully traverse this rejection. However, in the interest of furthering prosecution, claims 1-10 and 12-25 have been cancelled without prejudice, thereby rendering this rejection moot. Applicants reserve the right to pursue claims of the same or similar scope in the future.

**Claim rejection under 35 U.S.C. §103**

Claims 1-10, 12-25, and 28-29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Itou et al. in EP 1 068 876 A2 in view of Utsumi et al. in U.S. Patent No. 5,258,160. Please note that claims 1-10 and 12-25 are now cancelled. Regarding claim 28, which is amended to correct a minor error, this claim recites a proximal portion having about 80 to about 95 weight % polyoxymethylene homogeneously blended with about 5 to about 20 weight % polyether polyester. Similarly, claim 29 recites an outer layer including a proximal portion having about 80 to about 95 weight % polyoxymethylene homogeneously blended with about 5 to about 20 weight % polyether polyester. Itou et al. does not appear to teach or suggest these limitations. Instead, Itou et al. teaches at col. 4, paragraph [0027] that:

In the catheter of the present invention, it is possible for the first and second resin layers to be formed of the first resin material and the second resin material that are melted at least partially so as to be mixed or fused and, then solidified. In this case, it is possible for at least one of first and second resin materials to be melted partially so as to retain the skeleton thereof.

At best, this could only result in a partial mixing or gradient-laden mixture of material and not a homogeneously blended layer or portion as claimed. Furthermore, it is not reasonable to presume that partially melting the resin material “so as to retain the skeleton thereof” could result in the homogenous blending of the materials. Consequently, Itou et al. does not teach or suggest all the limitations of claims 28 and 29. Utsumi et al. does not cure this deficiency. As such, claims 28 are patentable over the cited references.

**Conclusion**

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

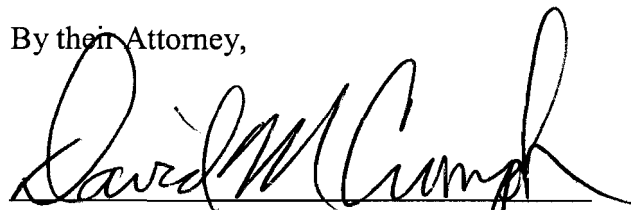
Respectfully submitted,

Martin R. Willard et al.

By their Attorney,

Date: \_\_\_\_\_

10/31/06

A handwritten signature in black ink, appearing to read "David M. Crompton", written over a horizontal line.

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